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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/798,616      | 03/11/2004  | James R. Baumann     | 206.00300102        | 6205             |

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EXAMINER

KOVACS, ARPAD F

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3671

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/798,616

Applicant(s)

BAUMANN ET AL.

Examiner

Árpád Fábián Kovács

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 14-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

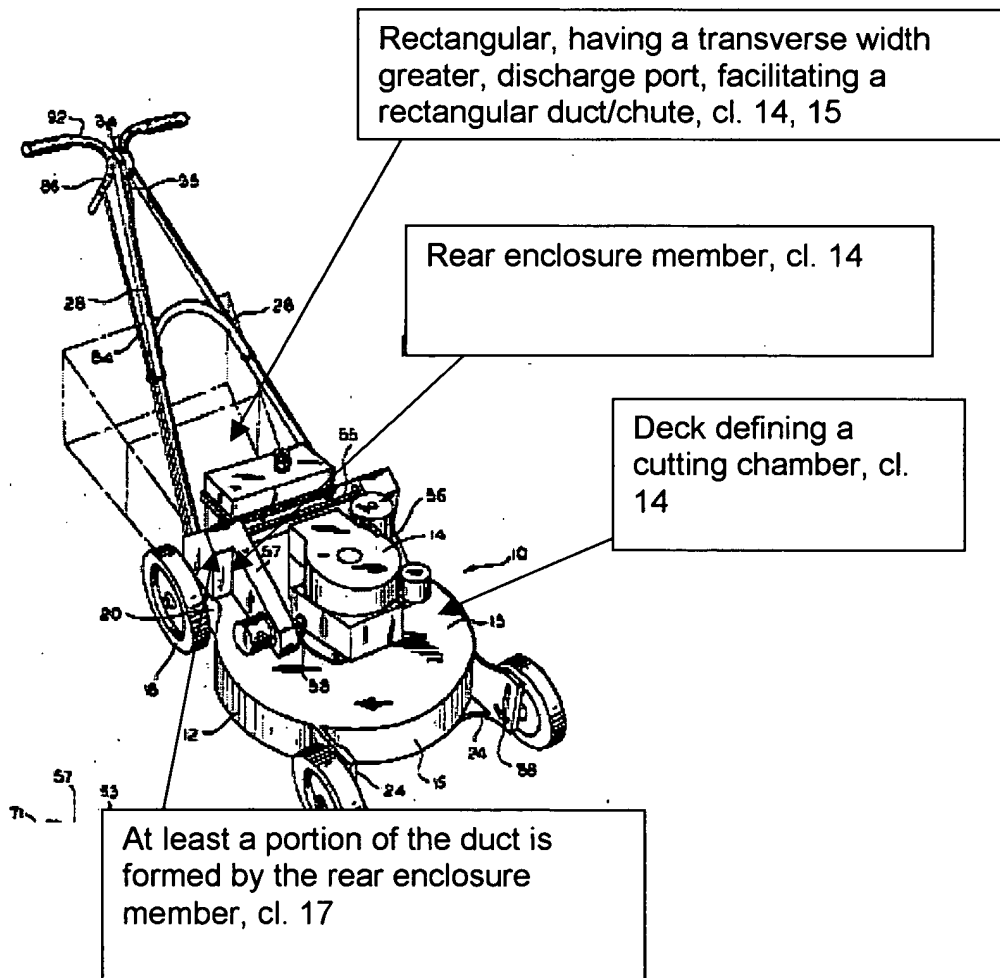
1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

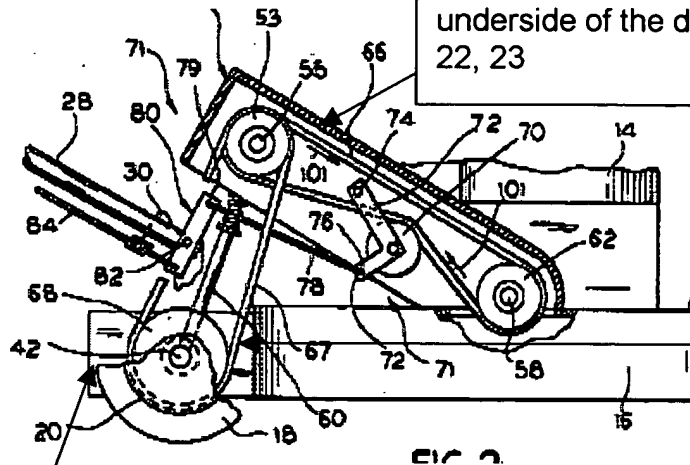
A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 14-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Scag (4146105, cited by Applicant).

Scag recites:





A belt cover secured to the underside of the deck, the belt is at least partially enclosed between an underside of the deck & the belt cover, cl. 21; the design shape of the belt cover conforms to the shape of the underside of the deck & abuts the rear enclosure; cl. 22, 23

A belt transmission proximate the rear discharge port, cl 18; and extends through the cutting chamber along an underside of the deck & through a portion of the rear enclosure member, cl. 19, 20

At least a portion of the duct is formed by an underside of the deck, cl. 16

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Scag (4146105, cited by Applicant), in view of Sugden (6192666).

Scag discloses the claimed device except for side discharge port.

Sugden discloses that it is known in the art to provide a side discharge port, because it is not always permitted to collect grass clippings; therefore Sugden provides both a rear discharge & collection means and a side discharge means (col. 1, ln 6-15; col. 2, ln 45-47).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the deck of Scag with the teachings of Sugden, in order to be able to conform to varying conditions/rules as to collecting grass clippings and discharging back to the field.

*Response to Arguments*

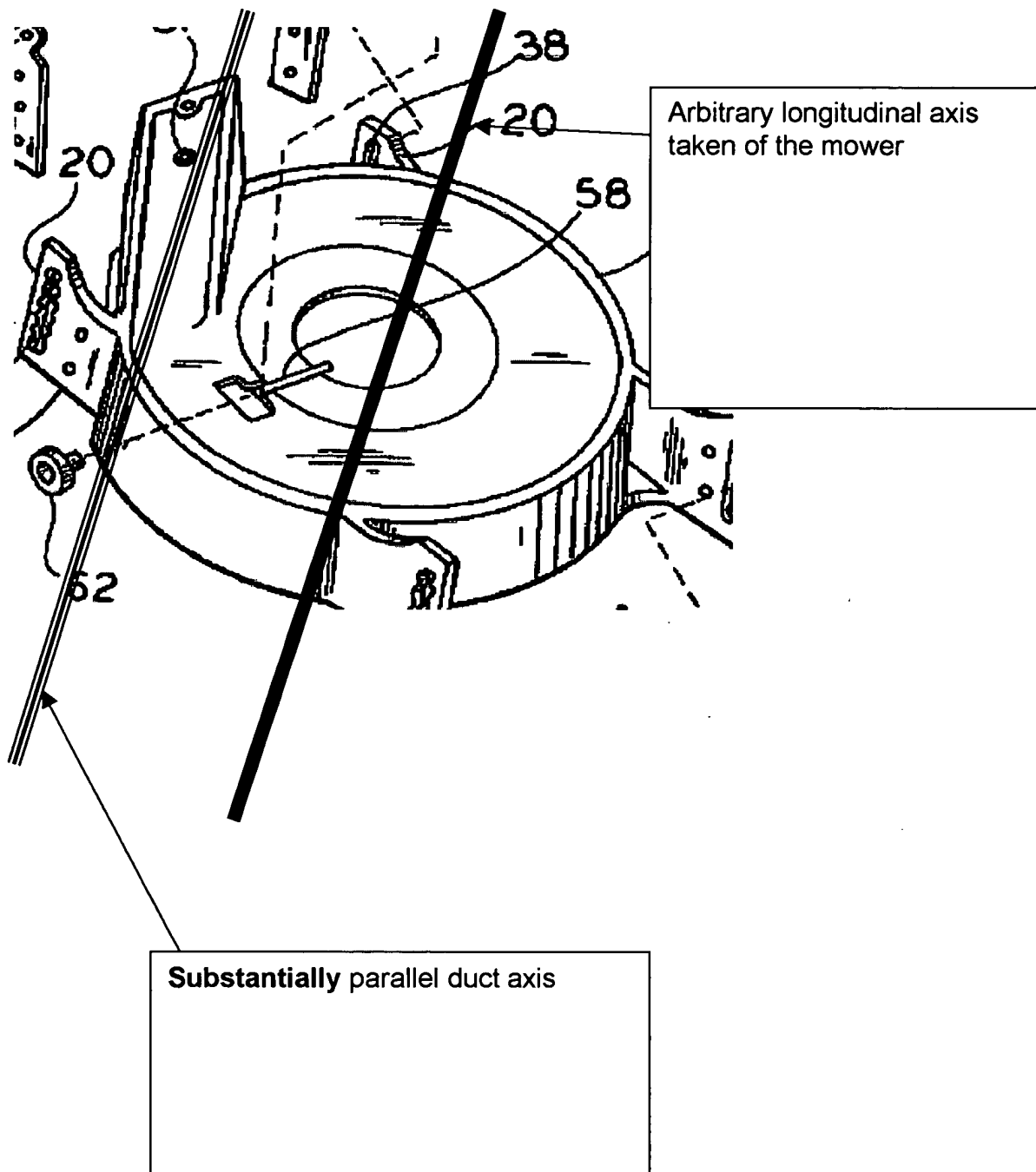
5. Applicant's arguments with respect to claims 14-24 have been considered but are moot in view of the new ground(s) of rejection.

Applicant correctly identified and treated the rejection of Scag in re claims 14-23, while claim 24 is a rejection in view of Sugden teaching the use of having a side discharge means.

Applicant argument relies on that "substantially parallel" is not shown. It is also correct that Scag does not show the chute to be as shown in the drawings of the application, however, the claim recites "substantially" and parallel to a "longitudinal axis of the mower."

Firstly, "substantially" could be interpreted slightly upwardly as shown by Scag, since it does not state "exactly" or any recitation that limits to "parallel" only interpretation. Secondly, even if Scag's chute extends upwardly, it is still parallel to a longitudinal axis of the mower, as shown in the figure below for better demonstration:

Art Unit: 3671



Art Unit: 3671

It is noted that if the longitudinal axis of the mower is defined and the phrase “substantially” removed from the claim, claim 14 could overcome Scag.

However, it is noted that any amendments made to the claims would require further search and consideration.



***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Olejak.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián Kovács whose telephone number is 571 272 6990. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571 272 6998. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Árpád Fábián Kovács  
Primary Examiner  
Art Unit 3671

ÁFK